

IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE: PETITION OF BELL SOUTH)
TO IMPLEMENT NEW AND) DOCKET NO. 00-00041
INCREASE EXISTING LATE)
PAYMENT CHARGES)

OBJECTION TO REPORT AND RECOMMENDATION OF HEARING OFFICER

Comes Tennessee consumers, represented by the Consumer Advocate Division to object to the report and recommendation of the hearing officer to the extent that said report and recommendation requires briefs which may be used to decide the rights, privileges and duties of Tennessee consumers without benefit of the discovery of facts. For cause the Consumer Advocate Division would show that:

1. That Tennessee consumers propounded discovery to BellSouth which BellSouth has not answered.
2. That Tennessee consumers duly brought the discovery BellSouth refused to answer to BellSouth's attention and sought complete answers but that BellSouth refused to provide said answers.
3. That Tennessee consumers subsequently and properly filed a Motion to Compel or alternatively a Motion in Limine.
4. That the Hearing Officer held the Motion to Compel or Alternate Motion in Limine in abeyance.

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5. That the Hearing Officer ordered the parties to file briefs on the issues without discovery and would purport to resolve matters in this case by briefs without the benefit of facts or by disregarding facts in contravention of *Jackson Mobilphone v. Tennessee Public Service Commission*, 876 S.W.2d 106, 111 (Tn. Ct. App. 1993).

6. That BellSouth is defending its proposed late charge tariff using arguments and statements upon which discovery was sought and which the hearing officer held in abeyance.

7. For example, Tennessee consumers, through the Consumer Advocate Division, propounded the following discovery request:

25. Please state each and every fact which supports BellSouth's statement that its proposed charges for late payments are not payments associated with the provision of telecommunications service?

8. That the Hearing Officer held Tennessee consumers's Motion to Compel in abeyance, but that one of the very first arguments in BellSouth's brief is that:

. . . . As explained below, however, the late payment charge is not a rate or charge for any telecommunications service.

BellSouth Brief, Page 2, footnote 2.

9. That permitting BellSouth to base its arguments upon statements or allegations for which discovery was sought violates substantive and procedural due process. *Tennessee*

Consumer Advocate v. Tennessee Regulatory Authority and United Cities Gas, Appeal

No. 01A01-9606-BC-00286, filed March 05, 1997.

(The issue of consideration of documents and/or communications is not an issue of "judicial notice" or "administrative notice," *but an issue of* admissibility of evidence and *procedural fairness in respect to notice of the matter to be considered and opportunity to cross-examine, or impeach the source or contradict the evidence to*

be considered.

It is elementary that administrative agencies are permitted to consider evidence which, in a court of law, would be excluded under the liberal practice of administrative agencies. Almost any matter relevant to the pending issue may be considered, provided interested parties are given adequate notice of the matter to be considered *and full opportunity to interrogate, cross-examine and impeach the source of information and to contradict the information.* Id.

10. That the Consumer Advocate Division incorporates the all of the filings it made with the Hearing Officer regarding the Motion to Compel by reference and alleges that it is entitled to said discovery and that the failure to permit said discovery and consider BellSouth's arguments violate Tennessee consumers substantive and procedural due process.
11. That the hearing officer has denied Tennessee consumers the information necessary to interrogate, rebut and impeach BellSouth's allegations and that said denial violates T.C.A. § 65-2-109(1) and (2) and the Uniform Administrative Procedures Act.

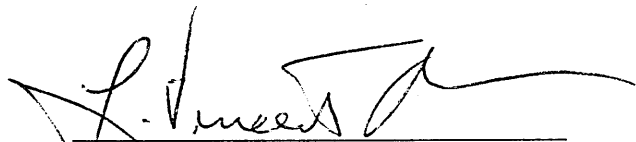
Wherefore, Tennessee consumers pray that the Tennessee Regulatory Authority either Compel BellSouth to provide the requested discovery or to direct the Hearing Officer to consider Tennessee consumers filed Motion to Compel and direct BellSouth to provide the discovery sought by the Consumer Advocate Division in its Motion to Compel.

Tennessee consumers further pray that the Tennessee Regulatory Authority direct to Hearing Officer to consider whether or not BellSouth provided complete responses to the Consumer Advocate Division's discovery.

Tennessee consumers further pray that the Tennessee Regulatory Authority direct the Hearing Officer to determine whether or not BellSouth made any arguments in its brief for which the Consumer Advocate Division sought discovery and if such arguments are found to provide

the Consumer Advocate Division with complete discovery.

Respectfully submitted,



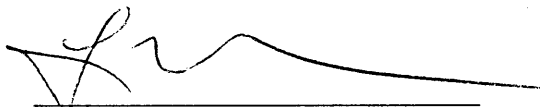
L. Vincent Williams
Deputy Attorney General - Consumer Advocate
Consumer Advocate Division
425 5th Avenue, North
Nashville, TN 37243
(615) 741-8723
BPR. No. 011189

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Document has been faxed and mailed postage prepaid to the parties listed below this 31st day of May, 2000.

Guy Hicks, Esq.
Patrick Turner, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300

David Waddell, Esq.
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505



L. Vincent Williams

TENNESSEE CONSUMER ADVOCATE, Plaintiff/Appellant,
vs.

TENNESSEE REGULATORY AUTHORITY AND UNITED CITIES GAS
COMPANY, Defendant/Appellee.

Appeal No. 01A01-9606-BC-00286

COURT OF APPEALS OF TENNESSEE, MIDDLE SECTION, AT NASHVILLE

1997 Tenn. App. LEXIS 148

March 05, 1997, FILED

APPEAL FROM THE DAVIDSON COUNTY TENNESSEE PUBLIC SERVICE
COMMISSION, AT NASHVILLE, TENNESSEE. TN Regulatory Authority Trial No. 95-01134.

COUNSEL

Charles W. Burson, Attorney General & Reporter, L. Vincent Williams, Consumer Advocate
Division, Nashville, TN, ATTORNEY FOR PLAINTIFF/APPELLANT.

H. Edward Phillips, III, Tennessee Regulatory Authority, Nashville, TN, ATTORNEY FOR
DEFENDANT/APPELLEE.

JUDGES

HENRY F. TODD, PRESIDING JUDGE, MIDDLE SECTION, CONCUR: BEN H.
CANTRELL, JUDGE, WILLIAM C. KOCH, JR., JUDGE

AUTHOR: TODD

OPINION

The petitioner, Tennessee Consumer Advocate, has petitioned this Court for review of

administrative decisions of the Tennessee Public Services Commission pursuant to T.R.A.P.

Rule 12. By order entered by this Court on October 3, 1996, the review is limited to an order
entered by the Commission on May 3, 1996. However, the circumstances stated hereafter require
reference to an order previously entered by the Tennessee Public Service Commission on May
12, 1995.

The Parties.

Prior to June 30, 1996, the Public Service Commission controlled the charges of public utilities
in Tennessee. On June 30, 1996, the Public Service Commission was discontinued by enactment
of the Legislature which created the Tennessee Regulatory Commission which has been
substituted for the Public Service Commission in proceedings before this Court.

By T.C.A. § 65-4-118, the Consumer Advocate Division of the Office of Attorney General and

Reporter may with the approval of the Attorney General and Reporter appear before any administrative body in the interests of Tennessee consumers of public utility services.

United Cities Gas Company is a public utility which purchases and distributes natural gas through its pipelines to patrons in parts of Tennessee.

The Administrative Proceedings.

On January 20, 1995, United filed with the Public Utilities Commission (hereafter P.S.C.), an application for approval of a scheme of variable rates based upon the wholesale price of gas purchased from suppliers.

P.S.C. granted leave to the Consumer Advocate to intervene.

On May 12, 1995, the P.S.C. entered an order approving the proposed scheme on condition that an independent consultant be engaged to review the "mechanism" and report to the commission annually.

On October 31, 1995, United Gas submitted to the Commission for approval, a contract with Consulting & Systems Integration, providing that the work was to be performed by a Mr. Frank Creamer. Subsequently, United Gas requested that Anderson Consulting be substituted for Consulting Systems because Mr. Creamer had severed his connection with Consulting Systems and affiliated with Anderson.

The May 3, 1996, order of the Commission, which is the subject of this appeal, approved the contract with Anderson Consulting and thereby satisfied all of the conditions for activation of the rate plan conditionally approved in the May 12, 1995 order.

On appeal, the Consumer Advocate presents ten issues for review. Only those which relate to the May 3, 1996, order will be considered.

The appellant's fourth, fifth, sixth and seventh issues are:

IV. The commission's action violated statutory provisions, was asked upon unlawful procedure, was arbitrary and capricious, or was clear error when it took judicial notice of a report prepared by a consultant of UCG.

V. The Consumer Advocate was denied an opportunity to be heard as to the propriety of taking judicial notice of the report.

VI. The Consumer Advocate division was not notified of the material noticed and afforded an opportunity to contest and rebut the facts or material so noticed.

VII. A decision of the Tennessee Public Service Commission is void or voidable when agency members receive aid from staff assistants, and such persons received ex parte communications of a type that the administrative judge hearing officer or agency members would be prohibited from receiving, and which furnish, augment, diminish or modify the evidence in the record in violation of Tenn. Code Ann. § 4-5-304(b).

At a hearing before the Commission on February 3, 1996, the following occurred:

Mr. Irion: We have the independent consultant here. Does the Commission on wish to hear from him?

Chairman: I think what we have agreed to is just summarize his testimony.

Mr. Williams: He has not made any testimony, and --

Mr. Irion: He has only filed a report, and he is not technically our witness or --

Mr. Williams: I think he is their witness. They chose him and paid for him. We did not have any choice. The Consumer Advocate was not given any choice in the matter who was going to be the witness.

Chairman: The Commission can take judicial notice of that, that record. That's our record.

Com. Hewlett: This is our consultant.

Mr. Hal Novak: That's correct, sir. The Commission staff chose this consultant.

Chairman: We can take judicial notice of that and it can be referred to in your argument here.

Mr. Williams: I would say that the Commission staff approved the consultant after the company selected the consultant.

Mr. Novak: That's not true, sir.

Chairman: Well, now wait a minute now, fellows. We can take judicial notice, and will take judicial notice of all our records and reports like that to the Commission and you can refer to that in your argument.

Mr. Williams: What I would also like to do, Commissioner, maybe we need to have a longer period of time. I would like to know what the staff's position -- it was indicated that the staff had a position that the rule operated effectively, that the Commissioners had obviously heard and were considering. I would like disclosure under the statute of the staff's position on why they think that it operates correctly.

Com. Hewlett: Well, that would be in my way of thinking not impossible to get into the record, but very difficult it is most appropriate, as I understand the law, for us to discuss with our technical staff. That's the reason that the Consumer Advocate Division was created because of the ex parte concerns of when our staff were parties to the case and when they are not. Our staff, as I understand it, it not a party to this case, and they are a resource for us for analyzing anything that is before this Commission. In this case this situation. So, I think you are trying to make a party to the case somebody that is not.

Mr. Williams: No, sir, what we are trying to do is get all the salient information on the record. The statute explicitly, the UAPA explicitly requires that the Commission disclose when it has

any of the position papers that are presented by the staff, and the Public Records Act does not prevent the disclosure of those items either.

Chairman: We will rule on that at the beginning of the meeting at 1:30.

Mr. Williams: Okay.

Chairman: Well, we will evaluate that with our legal counsel, and rule on it before issuing an order or in the order in this manner.

The record of proceedings clearly indicates that the Commission considered a report of an expert despite the objections of the Consumer Advocate and his efforts to impeach the report by cross-examination of the expert. T.C.A. § 65-2-109(1) and (2), authorize the consideration of a broad spectrum of evidence. However, no authority is cited to empower the Commission to deny a protesting party access to all evidence considered by the Commission and opportunity to impeach it by cross-examination of the origin of such evidence.

The issue of consideration of documents and/or communications is not an issue of "judicial notice" or "administrative notice," but an issue of admissibility of evidence and procedural fairness in respect to notice of the matter to be considered and opportunity to cross-examine, or impeach the source or contradict the evidence to be considered.

It is elementary that administrative agencies are permitted to consider evidence which, in a court of law, would be excluded under the liberal practice of administrative agencies. Almost any matter relevant to the pending issue may be considered, provided interested parties are given adequate notice of the matter to be considered and full opportunity to interrogate, cross-examine and impeach the source of information and to contradict the information.

No error is found in the consideration of informal forms of communication. However, error is found in the failure to give timely notice of the communication with opportunity to question,

cross-examine and impeach the source and contradict the information.

As illustrated by the above quotation from the record, the Commission was unfamiliar with basic rules of fairness in an administrative hearing.

Tenn. Code Ann. § 4-5-312(b)

Procedure of hearing. To the extent necessary for full disclosure of all relevant facts and issues, the administrative judge or hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, as restricted by a limited grant of intervention or by the pre-hearing order. (Emphasis added.)

Tenn. Code Ann. § 4-5-313(6)

Parties must be notified before or during the hearing, or before the issuance of any initial or final order that is based in whole or in part on facts or material noticed, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

Tenn. Code Ann. § 4-5-304(a)(b)

Ex parte communications.

(a) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative judge, hearing officer or agency member serving in a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.

(b) Notwithstanding subsection (a), an administrative judge, hearing officer or agency member may communicate with agency members regarding a matter pending before the agency or may receive aid from staff assistants, members of the staff of the attorney general and reporter, or a

licensed attorney, if such persons do not receive ex parte communications of a type that the administrative judge, hearing officer or agency members would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record. (Emphasis added.)

This Court concludes that the Commission committed a violation of basic principles of fairness in failing to afford the Consumer Advocate reasonable access to the materials to be considered and reasonable opportunity to cross-examine or otherwise impeach the origin of such materials.

For the foregoing reasons, the order entered by the Public Service Commission on May 3, 1996, is reversed, vacated, and the cause is remanded to the Tennessee Regulatory Authority for such further proceedings and actions as it may deem appropriate including a reconsideration of the subject of the May 3, 1996, order of the Public Service Commission.

Should the Regulatory Authority reach a conclusion different from that expressed in the May 3, 1996, order of the Commission, the way may be opened for a further consideration of the subject matter of the May 26, 1995, order, in which event the authority will be free to examine the merits of the order and the proposal dealt with therein.

Of particular interest and concern are the propriety of omitting certain income from considering "fair return," of "rewarding" utility for keeping its expenses at the minimum, and of utilizing the services of an expert employed by the utility. These issues have not been discussed in this opinion because of the limitation of the scope of the appeal granted by this Court.

Costs of this appeal are assessed against the Tennessee Regulatory Authority.

REVERSED AND REMANDED.
HENRY F. TODD
PRESIDING JUDGE, MIDDLE SECTION
CONCUR:
BEN H. CANTRELL, JUDGE

WILLIAM C. KOCH, JR., JUDGE
DISPOSITION

REVERSED AND REMANDED

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TN

'00 APR 13 PM 1:08

CONSUMER ADVOCATE DIVISION)
v.)
BELLSOUTH TELECOMMUNICATIONS,)
INC.)

DOCKET NO. 00-00041

EXECUTIVE SECRETARY

MOTION TO COMPEL, TO ISSUE SUBPOENAS, TAKE DEPOSITIONS, TO EFFECT
DISCOVERY AND TO AUDIT, OR A MOTION IN LIMINE

Comes the Consumer Advocate Division, on behalf of Tennessee consumers, and in accordance with the directions of the Hearing Officer and moves to compel answers by BellSouth, to issue subpoenas and to effect discovery of BellSouth in accordance with the Tennessee Rules of Civil Procedure, the Uniform Administrative Procedures Act and Title 65 of Tennessee Code Annotated. Alternatively, that the Hearing Officer should grant a Motion in Limine prohibiting BellSouth from introducing at the hearing any basis for its proposed late charge payments of which sufficient disclosure or notice is not provided in its answers to discovery. For cause the Consumer Advocate Division would show:

1. That the hearing officer in this case ordered the parties to respond to discovery by April 6, 2000 and to present Motions to Compel or for additional discovery by April 13, 2000.
2. That BellSouth's response to discovery was to object to every discovery request and provide only the information it deemed relevant.
3. That BellSouth's response to discovery and basis for not complying with the discovery requests of the Consumer Advocate Division is insufficient and contrary to the Rules of

Civil Procedure.

4. That BellSouth's insufficient discovery responses impair the exercise of due diligence, and are dilatory.
5. That the character of the information sought by the Consumer Advocate Division in this proceeding is relevant and material or likely to lead to the discovery of admissible evidence. [items 16, 23, 25, 26, 33(BellSouth objected to providing information so the answer is not complete), 34, 35, 37, 38, 40, 41, 42, 43, 44, 45].
6. That the Consumer Advocate Division has a substantial need for discovery of the materials to which BellSouth objected in the preparation of the case and that the Consumer Advocate Division is unable without undue hardship to obtain the materials by other means since the information is in the exclusive possession of BellSouth and a motion to compel should be granted. [items 16, 23, 25, 26, 33(BellSouth objected to providing information so the answer is not complete), 34, 35, 37, 38, 40, 41, 42, 43, 44, 45].
7. That the burden of deriving or ascertaining the information in BellSouth's possession is not the same for the Consumer Advocate Division as BellSouth, or that an audit by the Consumer Advocate Division in accordance with TRCP 33.03 is warranted and should be granted and a motion to compel should be granted. [items 2, 3, 16, 18, 23, 24, 25, 26, 33(BellSouth objected to providing information so the answer is not complete), 34, 35, 37, 38, 40, 41, 42, 43, 44, 45].
8. That subpoenas are warranted and a motion to compel should be granted so the Consumer Advocate Division can proceed with due diligence to identify any relevant or admissible

evidence or information which may lead to the identification of admissible or relevant evidence. [items 22, 23, 24, 25, 26, 33(BellSouth objected to providing information so the answer is not complete), 34, 35, 37, 38, 40, 41, 42, 43, 44, 45].

9. That the Consumer Advocate Division has not sought the mental impressions or work product of BellSouth's attorneys, but that the Consumer Advocate Division has a right to acquire information from the same persons providing information to BellSouth and that a subpoena is necessary to permit due diligence by the Consumer Advocate Division.
[items 10, 22, 23, 24]
10. That the persons that the Consumer Advocate Division seeks to depose are BellSouth's designated representative and the persons identified by BellSouth in item 11.
11. That BellSouth's responses provide no assurance that any information it actually produces is all of the information on the subject requested in the data request.
12. That BellSouth responses often do not answer the question asked.
13. That due diligence requires that counsel conduct such discovery as is sufficient to address the entirety of any issues presented in a case and the discovery permitted by the hearing officer and the responses of BellSouth have not satisfied the due diligence requirements of Tennessee consumers or counsel for Tennessee consumers.
14. That a decision which does not grant the motions made herein unfairly prejudices Tennessee consumers and the Consumer Advocate Division and prevents substantive and procedural due process.
15. That the failure of BellSouth to respond adversely affects the procedural schedule.

Wherefore Tennessee consumers and the Consumer Advocate Division pray that the

Hearing Officer grant the Motion to Compel, to Issue Subpoenas, Take Depositions, to Effect Discovery and to Audit, or Motion in Limine and reconsider the procedural schedule.

Respectfully submitted,

L. Vincent Williams

L. Vincent Williams

Deputy Attorney General - Consumer Advocate

Consumer Advocate Division

425 5th Avenue, North

Nashville, TN 37243

(615) 741-8723

BPR. No. 011189

by Vance
Boemel

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion to Compel, to Issue Subpoenas, Take Depositions, to Effect Discovery and to Audit or a Motion in Limine has been mailed postage prepaid to the parties listed below this 13th day of April, 2000.

Guy Hicks, Esq.
Patrick Turner, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300

David Waddell, Esq.
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

L. Vincent Williams

L. Vincent Williams

by Vance
Boemel

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TN

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CONSUMER ADVOCATE DIVISION)

v.)

BELLSOUTH TELECOMMUNICATIONS,)
INC.)

DOCKET NO. 00-00041

SECRETARY

PERMISSIVE SUPPLEMENT TO MOTION TO COMPEL, TO ISSUE SUBPOENAS, TAKE
DEPOSITIONS, TO EFFECT DISCOVERY AND TO AUDIT, OR A MOTION IN LIMINE

Comes the Consumer Advocate Division, on behalf of Tennessee consumers, and in accordance with the directions of the Hearing Officer and submits this Permissive Supplement to its motion.

BellSouth has to each and every discovery request put forth by the Consumer Advocate Division. As a result, the Consumer Advocate Division is unable to make a determination whether BellSouth has information in its possession which is relevant or may lead to the discovery of relevant evidence by the Consumer Advocate Division for this proceeding. The company has failed to submit information which conveys its theory of the case or any support for its tariff. A copy of the discovery requests are attached as exhibit A hereto and incorporated herein by reference.

Apparently several persons formulated BellSouth's position. As a result several BellSouth witnesses must have knowledge. We believe the Consumer Advocate Division as a litigant is entitled to discovery of their contribution and the discovery of BellSouth's management's position on how usage, charges, or other Tenn. Code Ann. § 65-5-208 (a) (1)

related terms apply to the company. Moreover, since BellSouth would not respond the Consumer Advocate Division must audit the company's books and records to extract information.

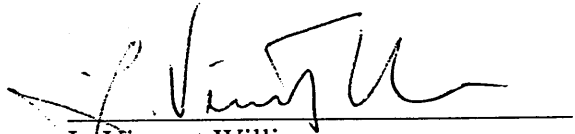
An attorney has a duty to investigate prior to trial, *Tipton v. Smith*, 593 S.W.2d 298 (Tenn.App. 1979); *Brown v. University Nursing Home, Inc.*, 496 S.W.2d 503 (Tenn.App. 1972); *City of Knoxville v. Ryan*, 13 Tenn.App. 186 (1929); *Demonbreun v. Walker*, 63 Tenn. 199 (1874); *Tabler v. Connor*, 60 Tenn. 195 (1873), to call appropriate witnesses at trial, *Zirkle v. Stegall*, 163 Tenn. 323, 43 S.W.2d 192 (1931); *Wilson v. Nashville C. & St. L. Ry.*, 16 Tenn.App. 695, 65 S.W.2d 637 (1933); *Stafford v. Stafford*, 1 Tenn.App. 477 (1926); *Ware v. State*, 108 Tenn. 466, 67 S.W. 853 (1902), to fully examine all witnesses, *Noel v. McCrory*, 47 Tenn. 623 (1868); *Luna v. Edmiston*, 37 Tenn. 159 (1857); *Darnell v. McNichols*, 22 Tenn.App. 287, 122 S.W.2d 808 (1938), and to secure evidence of which counsel becomes aware at trial. *Bradshaw v. Holt*, 200 Tenn. 249, 292 S.W.2d 30 (1956); *Southwestern Transp. Co. v. Waters*, 168 Tenn. 596, 79 S.W.2d 1028 (1935); *Whitfield v. Loveless*, 1 Tenn.App. 377 (1925).

The failure of BellSouth to answer the Consumer Advocate Division's discovery substantially impairs counsels investigation, the ability to call witnesses, cross-examine and present evidence. Furthermore, even though the Consumer Advocate Division identifies several discovery requests to which BellSouth did not respond, there are some requests to which there was a response and BellSouth's objections suggest that its answer is not complete. As a result, counsel has a due diligence need to be sure the response is complete.

Wherefore Tennessee consumers and the Consumer Advocate Division pray that the Hearing Officer grant the Motion to Compel, to Issue Subpoenas, Take Depositions, to Effect

Discovery and to Audit, or alternatively grant a Motion in Limine prohibiting BellSouth from presenting any testimony going to the issues, matters or questions to which it objected.

Respectfully submitted,



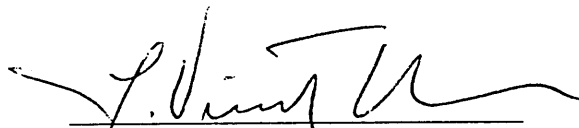
L. Vincent Williams
Deputy Attorney General - Consumer Advocate
Consumer Advocate Division
425 5th Avenue, North
Nashville, TN 37243
(615) 741-8723
BPR. No. 011189

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion to Compel, to Issue Subpoenas, Take Depositions, to Effect Discovery and to Audit, or a Motion in Limine has been mailed postage prepaid to the parties listed below this 18th day of April, 2000.

Guy Hicks, Esq.
Patrick Turner, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300

David Waddell, Esq.
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505



L. Vincent Williams

BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE

BELLSOUTH TELECOMMUNICATIONS,)
INC. TARIFF FILING TO INTRODUCE)
LATE PAYMENT CHARGES) Docket No. 00-00041
)
)

DISCOVERY REQUEST TO BELLSOUTH TELECOMMUNICATIONS

To: BellSouth Telecommunications
c/o Patrick Turner, Esq.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300

Please reply to the discovery requests provided herein by: 1) answering under oath these discovery requests and serving your answers upon Consumer Advocate L. Vincent Williams or his designee at 2nd Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37243; and 2) providing clear copies of the documents and things specified herein. The answer to each item should begin with the restatement of the question and should conclude with the signature and title of the person(s) responsible for answering that particular question.

Please be aware that this discovery is continuing in nature and requires the party from whom discovery is sought to provide supplemental responses if additional or different information is obtained or as may be necessary from time to time to provide the Consumer Advocate with a full, complete and current answer or response until the hearing in this docket.

INSTRUCTIONS AND DEFINITIONS

The terms "you", "your" and "yours" as used herein refer to the addressee party of these Interrogatories as well as any and all agents, employees, representatives, experts, and other persons acting or purporting to act on your behalf.

If, for any reason, you are unable to answer a discovery request fully, submit as much information as is available and explain why your answer is incomplete. If precise information cannot be supplied, submit 1) your best estimate, so identified, and your basis for the estimate and 2) such information available to you as comes closest to providing the information requested. If you have reason to believe that other sources of more complete and accurate information exist, identify those sources.

If a document exists in different versions, including any dissimilar copies (such as a duplicate with handwritten notes on one copy, or electronic or computer versions), each version

shall be treated as a different document and each must be identified and produced.

If you contend that you are entitled to refuse to fully answer any of this discovery, state the exact legal basis for each such refusal.

These discovery requests are to be interpreted broadly to fulfill the benefit of full discovery. To assist you in providing full and complete discovery, Petitioner provides the following defining guidelines:

1. The term "person" or "persons" as used herein refers to any natural person, corporation, firm, company, sole proprietorship, partnership, business, unincorporated association, or other entity of any sort whatsoever. Where a company or organization is the party being served all responses must include the company's response. Moreover, the company's designated person for responding must assure that the company provides complete answers. *A complete answer must provide a response which includes all matters known or reasonably available to the company.* The response is not to be limited to the knowledge of the individual responding.

2. The term "document" as used herein has the full extent of its possible meaning in accordance with law, including any written, printed, typed, drawn, filmed, taped, or recorded in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, photograph, tape recording, computer disk or record, or other data compilation in any form. This definition shall also mean all copies of documents by whatever means made including any nonidentical versions or drafts (whether different from the original because of handwritten notes, underlining, highlighting, or otherwise). If any document has been destroyed, lost, misplaced or deleted, it must be identified and a summary of the documents contents provided along with the identification of its author and the person(s) to whom it was transmitted, if any.

3. The terms "and" and "or" shall be construed conjunctively or disjunctively as necessary to include any information that might otherwise be construed outside the scope of these requests.

4. References to the masculine shall include the feminine, the singular shall include the plural, and vice versa.

5. The term "communication" means any transmission of information by oral, graphic, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, or otherwise.

6. Each discovery answer should begin by restating the item requested.

7. Where a number of sheets are required to fully answer an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 1 of 6.

8. If any information requested is not furnished as requested, please state where and how the information may be obtained or extracted, the person or persons having knowledge of the procedure and the person instructing that the information be excluded.

9. Please respond fully to the request even if it has been partially requested or supplied in prior filings or dockets. The information and Rule 33 and 34 information shall be submitted to this office at 2nd Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37243-0500. If there is a need for clarification of any attached request, please contact me at

(615) 741-8700 before furnishing the response.

Rule 36. Requests for Admission.

36.01 Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26.02 set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party.

The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, *the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that he or she has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.* A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party may, subject to the provisions of Rule 37.03, deny the matter or set forth reasons why the party cannot admit or deny it.

Requests to Admit or Deny, Interrogatories and Requests for Production

1. Please state the average number of Residential and Business customers who, during an average month, pay their telephone bills late.
2. Please state the average number of customers, who during an average month, make partial payments to BellSouth which equal or exceed the amount owed BellSouth for its provision of local basic exchange service to the customer?
3. Please state the average number of customers who during an average month make partial payments to BellSouth which equal or exceed the amount owed BellSouth for its provision of intrastate service to the customer?

REQUEST FOR PRODUCTION

4. Please produce all information used to support BellSouth's statement's of the average number of Residential and Business customers who pay their telephone bill late

conclusions.

5. Please state the average Tennessee monthly (or total annual) revenue, minus any late payment charges, collected after BellSouth's stated due date from:

Residential Customers
State Government agencies
County Government agencies
City Government agencies
Public Educational Schools and Institutions
Federal Government agencies
Other Business Customers
All Tennessee Customers

6. Please produce all workpapers and source documents which pertain to the average monthly (or total annual) revenues collected late from Tennessee Residential Customers, State Government agencies, County Government agencies, City Government agencies, public educational institutions, Federal Government agencies, and all other Tennessee customers with business rates, other than governmental customers.

REQUEST FOR PRODUCTION

7. Please produce for inspection and copying all calculations of the estimated annual Tennessee late payment charge revenue that would be collected as the result of the implementation of the proposed late payment charge from:

- a.) Residential customers
- b.) Governmental agencies
1. Federal
 2. County
 3. City
- c.) Other Business Customers
- d.) The total of all classes of Tennessee Customers.

8. Please produce any and all calculations of the estimated annual Tennessee late payment charge revenue that would be collected as the result of applying the proposed late payment charge to:

- a.) Revenues billed by BellSouth Telecommunications Tennessee on behalf of other nonaffiliated entities. (for example bills for interexchange carriers)

b.) Revenue billed by BellSouth Telecommunications Tennessee on behalf of affiliated or related entities.(BellSouth Publishing, BellSouth Internet Service, etc.)

c.) Revenue billed by BellSouth Telecommunications Tennessee for Local service and for vertical services.

d.) Revenue billed by BellSouth Telecommunications Tennessee for BellSouth IntraLATA Toll.

e.) Total revenue billed by BellSouth Telecommunications to total of all Tennessee consumers.

(Please produce detailed workpapers.)

9. Please state the annual discounts provided to BellSouth Telecommunications Tennessee's customers who pay for local service:

a.) in advance of the provision of service, and

b.) in advance of the due date.

10. For each and every allegation made by the Consumer Advocate Division in its complaint or Petition to Intervene and denied by BellSouth, please state and explain each and every ground and reason for the denial.

11. Please identify each and every person who provides answers to each discovery request.

REQUEST FOR PRODUCTION

12. Please produce any and all studies and samples of customer payment patterns made by or on behalf of BellSouth from June 1995 to the present, including but not limited to, statistical studies and samples.

13. Please produce any and all criticism(s) and comments of any and all studies of customer payment patterns in BellSouth's possession or of which it has knowledge?

14. What is the current revenue lead lag amount required (working capital required due to the lag between the date service is provided and the date of collection)by customer class and in total?(Please produce detailed workpapers which reference the information sought.)

15. Please state the 1999 revenue, by basic and non-basic pursuant to T.C.A. § 65-5-208 and

in total, that BellSouth bills Tennessee customers in advance of providing service and the applicable late charges by revenue category.

16. Please state the amount of that portion of BellSouth's aggregate revenues arising solely from, or is allocated from its aggregate revenues for any and all things or items BellSouth regards as "charges" as of December 31, 1998 and December 31, 1999.
17. Please produce any and all references to late payments in any and all tariffs in all states served by BellSouth as of December 31, 1999.
18. Identify the average number of days between the average date local service is provided (middle of the billing cycle) and the date on which the customers' bills are paid. (Please produce detailed workpapers which reference the information sought.)
19. Identify the number of days between the average date local service is provided (middle of the billing cycle) and the date on which the late payment charge will apply. (Please provide detailed workpapers.)
20. Identify the number of days between the average date that bills are mailed to the customer and the date that the late payment charge will apply. (Please provide detailed workpapers.)
21. Please produce copies of any and all account receivable analysis that identify the amounts of BellSouth Telecommunications, Inc.'s Tennessee customer accounts receivable that are:
 - More than 30 but less than 60 days past due
 - More than 60 but less than 90 days past due
 - More than 90 days past due
22. Please produce any and all documents created, used, or considered by any BellSouth personnel or BellSouth consultants which suggest, evaluate or recommend increasing payments for services associated with local basic exchange services, benefits, or thing currently provided to BellSouth consumers.
23. Please produce for inspection and copying any and all workpapers, studies or suggestions for offsetting any and all revenue reductions made by BellSouth.
24. Please produce for inspection and copying any and all calculations, workpapers (cite source documents) and provide explanations of the annual tracking, administering, collecting, and other costs incurred by BellSouth as the result of BellSouth's Tennessee Customers of paying their bills late.

25. Please state each and every fact which supports BellSouth's statement that its proposed charges for late payments are not payments associated with the provision of telecommunications service?
26. Please state the economic or financial value of each and every service, benefits, or thing provided by BellSouth to local basic exchange service customers on June 6, 1995 without an additional rate or charge.
 - a.) Please state the economic cost and financial value of each and every service, benefit, or thing provided to BellSouth basic service customers without additional charge to the customer on June 6, 1995.
 - b.) Please state the economic cost and financial value of each and every service, benefit, or thing provided to BellSouth basic service customers with a fixed additional charge to the customer on June 6, 1995.
 - c.) For "a" and "b" above please state the economic cost and financial value as of December 1, 1998.
27. What lead lag studies have been performed on behalf of BellSouth for regulated services in its region since 1990?
28. Please produce for inspection and copying each and every lead lag study performed on behalf of BellSouth since 1990. The study should include all workpapers.
29. Provide a copy of the lead lag study("ies") that were used to determine or otherwise compute the working capital component of the rate base in Tennessee Public Service Commission Docket 90-05953 and Tennessee Public Service Commission Docket 92-13527.
30. What was the revenue lead lag amount (working capital required due to the lag between the date service was provided and the date of collection) that was included in the rate base of the most recent order establishing BellSouth's Tennessee intrastate rates prior to June 6, 1995. Provide detailed workpapers and supporting documents.
31. Please produce for inspection and copying any and all contracts made with other telecommunications companies or organizations for whom BellSouth bills Tennessee consumers.
32. Please produce for inspection and copying any and all contracts BellSouth had with other entities or persons for whom BellSouth billed and which were in effect on the date BellSouth filed its proposed late charge tariff with the Tennessee Regulatory Authority.

33. Please produce for inspection and copying any and all documents, as defined in the preamble to these discovery requests, which BellSouth prepared or considered with respect to seeking any late payment charge tariff in Tennessee. This interrogatory is intended to have BellSouth produce any and all documents and communications, electronic or otherwise, which any BellSouth employee produced, saw, or read from the idea stage to the present which relates to seeking or proposing any late charge tariff for Tennessee. If a portion of the information has been provided in response to other requests for production, the provided information does not need to be produced again.
34. Please produce for inspection and copying any and all documents, as defined in the preamble to these discovery requests, which BellSouth prepared or considered with respect to seeking any late payment charge tariff in any other locale in its region since 1990. This interrogatory is intended to have BellSouth produce any and all documents and communications, electronic or otherwise, which any BellSouth employee produced, saw, or read from the idea stage to the present which relates to seeking or proposing any late charge tariff other than Tennessee. If a portion of the information has been provided in response to other requests for production, the provided information does not need to be produced again.
35. As a hypothetical question, assume that BellSouth's aggregate revenues and its initial rates in Tennessee on either December 1, 1999 or December 9, 1999 encompassed any and all costs and effects on the company due to customer late payments and were deemed just, reasonable and affordable. Assuming that the preceding hypothetical is true, please state each and every reason that BellSouth's aggregate revenues, as of the date it filed the proposal in this case, were less than just, reasonable and affordable?
36. Provide a detailed example and explanation of the method BellSouth uses to compute uncollectible amounts that are recorded as a operating expense (Aging of account receivable, percentage of credit sales method, direct write off method, etc.). Identify all factors used and explain the procedure used to determine such factors.
37. Please produce any and all information received or considered by BellSouth from companies in the southeastern United States with "comparable" credit granting policies and state the facts that make them reasonable.
38. Please produce for inspection and copying any and all calculations and workpapers used in computing the annual discounts provided to Tennessee consumers who pay their bills in advance of the due date.
39. Please state the amount of that portion of BellSouth's aggregate revenues arising solely from charges that BellSouth bills for other companies as of December 31, 1998 and December 31, 1999 and identify the amount of late charges billed by the other companies

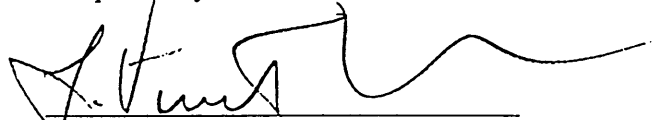
to BellSouth's customers through BellSouth bills.

40. When BellSouth bills on behalf of another company, please state BellSouth's payment to the other company as a percentage of the total dollars billed on behalf of the other company and provide the estimated late charges that BellSouth would collect on behalf of the other company.

REQUESTS TO ADMIT

41. BellSouth admits that its aggregate revenues on June 6, 1995 and December 1, 1998 included the revenues associated with "charges?"
42. BellSouth admits that it does not purchase, from other telecommunications service providers, all of the accounts for which it bills?
43. BellSouth admits that rates and charges for utility services do not exist in isolation?
44. BellSouth admits that rates have meaning only when one knows the services, benefits or things to which the rates are attached?
45. BellSouth admits that before it applied for price regulation, during its application for price regulation, and after its application for price regulation that the rates it charged had and have meaning only when one knows the services, benefits or things to which the rates are attached?

Respectfully Submitted,

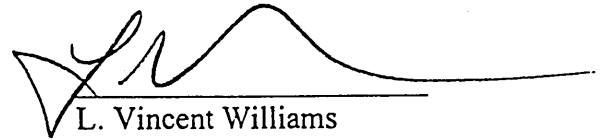


L. Vincent Williams
Deputy Attorney General-Consumer Advocate
Consumer Advocate Division
425 Fifth Ave., North, Second Fl.
Nashville, TN 37243
615-741-8723
B.P.R. No. 011189

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Document has been mailed postage prepaid to the parties listed below this 22nd day of March, 2000.

Patrick Turner, Esq.
BellSouth Communications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300



L. Vincent Williams

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TN

CONSUMER ADVOCATE DIVISION)	
)	
v.)	DOCKET NO. 00-00041
)	
BELLSOUTH TELECOMMUNICATIONS,)	
INC.		

MOTION TO COMPEL, TO ISSUE SUBPOENAS, TAKE DEPOSITIONS, TO EFFECT
DISCOVERY AND TO AUDIT, OR A MOTION IN LIMINE

Comes the Consumer Advocate Division, on behalf of Tennessee consumers, and in accordance with the directions of the Hearing Officer and moves to compel answers by BellSouth, to issue subpoenas and to effect discovery of BellSouth in accordance with the Tennessee Rules of Civil Procedure, the Uniform Administrative Procedures Act and Title 65 of Tennessee Code Annotated. Alternatively, that the Hearing Officer should grant a Motion in Limine prohibiting BellSouth from introducing at the hearing any basis for its proposed late charge payments of which sufficient disclosure or notice is not provided in its answers to discovery. For cause the Consumer Advocate Division would show:

1. That the hearing officer in this case ordered the parties to respond to discovery by April 6, 2000 and to present Motions to Compel or for additional discovery by April 13, 2000.
2. That BellSouth's response to discovery was to object to every discovery request and provide only the information it deemed relevant.
3. That BellSouth's response to discovery and basis for not complying with the discovery requests of the Consumer Advocate Division is insufficient and contrary to the Rules of

Civil Procedure.

4. That BellSouth's insufficient discovery responses impair the exercise of due diligence, and are dilatory.
5. That the character of the information sought by the Consumer Advocate Division in this proceeding is relevant and material or likely to lead to the discovery of admissible evidence. [items 16, 23, 25, 26, 33(BellSouth objected to providing information so the answer is not complete), 34, 35, 37, 38, 40, 41, 42, 43, 44, 45].
6. That the Consumer Advocate Division has a substantial need for discovery of the materials to which BellSouth objected in the preparation of the case and that the Consumer Advocate Division is unable without undue hardship to obtain the materials by other means since the information is in the exclusive possession of BellSouth and a motion to compel should be granted. [items 16, 23, 25, 26, 33(BellSouth objected to providing information so the answer is not complete), 34, 35, 37, 38, 40, 41, 42, 43, 44, 45].
7. That the burden of deriving or ascertaining the information in BellSouth's possession is not the same for the Consumer Advocate Division as BellSouth, or that an audit by the Consumer Advocate Division in accordance with TRCP 33.03 is warranted and should be granted and a motion to compel should be granted. [items 2, 3, 16, 18, 23, 24, 25, 26, 33(BellSouth objected to providing information so the answer is not complete), 34, 35, 37, 38, 40, 41, 42, 43, 44, 45].
8. That subpoenas are warranted and a motion to compel should be granted so the Consumer Advocate Division can proceed with due diligence to identify any relevant or admissible

evidence or information which may lead to the identification of admissible or relevant evidence. [items 22, 23, 24, 25, 26, 33(BellSouth objected to providing information so the answer is not complete), 34, 35, 37, 38, 40, 41, 42, 43, 44, 45].

9. That the Consumer Advocate Division has not sought the mental impressions or work product of BellSouth's attorneys, but that the Consumer Advocate Division has a right to acquire information from the same persons providing information to BellSouth and that a subpoena is necessary to permit due diligence by the Consumer Advocate Division.

[items 10, 22, 23, 24]

10. That the persons that the Consumer Advocate Division seeks to depose are BellSouth's designated representative and the persons identified by BellSouth in item 11.
11. That BellSouth's responses provide no assurance that any information it actually produces is all of the information on the subject requested in the data request.
12. That BellSouth responses often do not answer the question asked.
13. That due diligence requires that counsel conduct such discovery as is sufficient to address the entirety of any issues presented in a case and the discovery permitted by the hearing officer and the responses of BellSouth have not satisfied the due diligence requirements of Tennessee consumers or counsel for Tennessee consumers.
14. That a decision which does not grant the motions made herein unfairly prejudices Tennessee consumers and the Consumer Advocate Division and prevents substantive and procedural due process.
15. That the failure of BellSouth to respond adversely affects the procedural schedule.

Wherefore Tennessee consumers and the Consumer Advocate Division pray that the

Hearing Officer grant the Motion to Compel, to Issue Subpoenas, Take Depositions, to Effect Discovery and to Audit, or Motion in Limine and reconsider the procedural schedule.

Respectfully submitted,

L. Vincent Williams
Deputy Attorney General - Consumer Advocate
Consumer Advocate Division
425 5th Avenue, North
Nashville, TN 37243
(615) 741-8723
BPR. No. 011189

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion to Compel, to Issue Subpoenas, Take Depositions, to Effect Discovery and to Audit, or a Motion in Limine has been mailed postage prepaid to the parties listed below this ____ day of April, 2000.

Guy Hicks, Esq.
Patrick Turner, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300

David Waddell, Esq.
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

L. Vincent Williams

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TN

CONSUMER ADVOCATE DIVISION)	
)	
v.)	DOCKET NO. 00-00041
)	
BELLSOUTH TELECOMMUNICATIONS,)	
INC.)	

PERMISSIVE SUPPLEMENT TO MOTION TO COMPEL, TO ISSUE SUBPOENAS, TAKE
DEPOSITIONS, TO EFFECT DISCOVERY AND TO AUDIT, OR A MOTION IN LIMINE

Comes the Consumer Advocate Division, on behalf of Tennessee consumers, and in accordance with the directions of the Hearing Officer and submits this Permissive Supplement to its motion.

BellSouth has to each and every discovery request put forth by the Consumer Advocate Division. As a result, the Consumer Advocate Division is unable to make a determination whether BellSouth has information in its possession which is relevant or may lead to the discovery of relevant evidence by the Consumer Advocate Division for this proceeding. The company has failed to submit information which conveys its theory of the case or any support for its tariff. A copy of the discovery requests are attached as exhibit A hereto and incorporated herein by reference.

Apparently several persons formulated BellSouth's position. We believe the Consumer Advocate Division as a litigant is entitled to discovery of their contribution and the discovery of BellSouth's management's position on how usage, charges, or other Tenn. Code Ann. § 65-5-208 (a) (1) related terms apply to the company. Several BellSouth witnesses must have knowledge.

Moreover, since BellSouth would not respond the Consumer Advocate Division must audit the company's books and records to extract information.

An attorney has a duty to investigate prior to trial, *Tipton v. Smith*, 593 S.W.2d 298 (Tenn.App. 1979); *Brown v. University Nursing Home, Inc.*, 496 S.W.2d 503 (Tenn.App. 1972); *City of Knoxville v. Ryan*, 13 Tenn.App. 186 (1929); *Demonbreun v. Walker*, 63 Tenn. 199 (1874); *Tabler v. Connor*, 60 Tenn. 195 (1873), to call appropriate witnesses at trial, *Zirkle v. Stegall*, 163 Tenn. 323, 43 S.W.2d 192 (1931); *Wilson v. Nashville C. & St. L. Ry.*, 16 Tenn.App. 695, 65 S.W.2d 637 (1933); *Stafford v. Stafford*, 1 Tenn.App. 477 (1926); *Ware v. State*, 108 Tenn. 466, 67 S.W. 853 (1902), to fully examine all witnesses, *Noel v. McCrory*, 47 Tenn. 623 (1868); *Luna v. Edmiston*, 37 Tenn. 159 (1857); *Darnell v. McNichols*, 22 Tenn.App. 287, 122 S.W.2d 808 (1938), and to secure evidence of which counsel becomes aware at trial. *Bradshaw v. Holt*, 200 Tenn. 249, 292 S.W.2d 30 (1956); *Southwestern Transp. Co. v. Waters*, 168 Tenn. 596, 79 S.W.2d 1028 (1935); *Whitfield v. Loveless*, 1 Tenn.App. 377 (1925).

The failure of BellSouth to answer the Consumer Advocate Division's discovery substantially impairs counsels investigation, the ability to call witnesses, cross-examine and present evidence.

Wherefore Tennessee consumers and the Consumer Advocate Division pray that the Hearing Officer grant the Motion to Compel, to Issue Subpoenas, Take Depositions, to Effect Discovery and to Audit, or alternatively grant a Motion in Limine prohibiting BellSouth from presenting any testimony going to the issues, matters or questions to which it objected.

Respectfully submitted,

L. Vincent Williams
Deputy Attorney General - Consumer Advocate
Consumer Advocate Division
425 5th Avenue, North
Nashville, TN 37243
(615) 741-8723
BPR. No. 011189

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion to Compel, to Issue Subpoenas, Take Depositions, to Effect Discovery and to Audit, or a Motion in Limine has been mailed postage prepaid to the parties listed below this ____ day of April, 2000.

Guy Hicks, Esq.
Patrick Turner, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300

David Waddell, Esq.
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

5

L. Vincent Williams

IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

RECEIVED IN
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IN RE: PETITION OF BELL SOUTH TO)
IMPLEMENT NEW AND INCREASE)
EXISTING LATE PAYMENT)
CHARGES)

EXECUTIVE SECRETARY

DOCKET NO. 00-00041

REASONS WARRANTING DISCOVERY

Comes the Consumer Advocate Division and respectfully submits that all of the discovery requested by the Consumer Advocate Division in this case is relevant or likely to lead to the discovery of relevant evidence. BellSouth's tariff seeks to add late payment charges to both basic and non-basic service. In addition, BellSouth seeks to impose late payment charges to non-basic service even if it can not impose charges on basic local exchange service. Furthermore, BellSouth seeks to impose charges for telephone services where others contracted with the consumer. As a result, the Consumer Advocate Division needs discovery regarding each of the classes of customer.

In his initial affidavit at the outset of this case R. Terry Buckner, stated:

1. That the BellSouth rate filing does not address the fact that the customer or end-user has already considered the timeliness of payments and their related bad debt expense in BellSouth's current rates.
2. That at the last rate proceeding for BellSouth before the Tennessee Public Service Commission ("TPSC"), return on the investment in Working Capital required to fund the operations during the lag between provision of

service and collection of revenues was included in the cost of service on which current rates are based.

3. That at the last rate proceeding for BellSouth before the TPSC, the cost of service on which current rates are based included bad debt expense reflecting BellSouth's actual collection experience and that those rates were in existence on June 6, 1995 and December 1, 1998.
4. That the imposition of a late payment charge without a corresponding reduction will result in BellSouth's double recovering of costs. BellSouth will recover once through rates and again through the application of the penalty.

The information sought by the Consumer Advocate Division is also relevant to the matters presented by Mr. Buckner. Mr. Buckner also ratifies the information requested in certain discovery requests by affidavit and said affidavit is incorporated by reference.

Respectfully submitted,



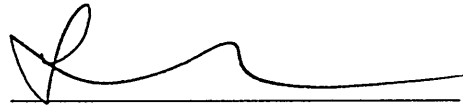
L. Vincent Williams
Deputy Attorney General - Consumer Advocate
Consumer Advocate Division
425 5th Avenue, North
Nashville, TN 37243
(615) 741-8723
BPR. No. 011189

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Reasons for Discovery has been mailed postage prepaid to the parties listed below this 1 day of May, 2000.

Guy Hicks, Esq.
Patrick Turner, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300

David Waddell, Esq.
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505



L. Vincent Williams

IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE: PETITION OF BELL SOUTH TO)
IMPLEMENT NEW AND INCREASE)
EXISTING LATE PAYMENT) DOCKET NO. 00-00041
CHARGES)
)

AFFIDAVIT

Comes the Affiant, R. Terry Buckner, after being duly sworn who deposes and says:

1. That I am a Certified Public Accountant and Senior Regulatory Analyst of the Consumer Advocate Division Staff ("CA") in the office of the Attorney General and Reporter for the State of Tennessee.
2. That discovery is necessary for the reasons indicated on the attached pages and because the other information requested goes to the facts which should be in evidence in this case.

Further the Affiant sayeth not.

R. Terry Buckner

R. Terry Buckner

Subscribed and sworn before me this the 1st day of May, 2000.

Teresa A. Harris

Notary Public

My commission expires on the Jan. day of 25, 2003.

IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE: PETITION OF BELL SOUTH TO)
IMPLEMENT NEW AND INCREASE)
EXISTING LATE PAYMENT) DOCKET NO. 00-00041
CHARGES)
)

INITIAL BRIEFING ISSUES

In accordance with the directive of the hearing officer, Tennessee consumers, file this statement disclosing the issues it will brief. By filing the statement, the Consumer Advocate Division does not waive its right to any objections to arriving at a decision on the issues without ascertaining whether or not other legal issues are relevant and material or whether material facts which may affect the decision are in dispute.

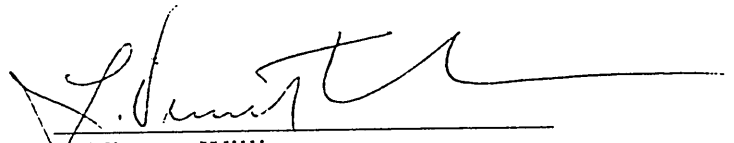
BASIC LOCAL EXCHANGE SERVICE

1. Did the General Assembly, when it compelled incumbent local exchange companies applying for price regulation to add services to the basic local exchange service classification, change or diminish the relationship between the then existing service provided and the rates for those services provided?
2. Does Tenn. Code Ann. § 65-5-208 (a)(1)'s inclusion of all recurring and nonrecurring charges existing in rates, mean that all recurring and nonrecurring charges associated with basic local exchange service are covered, including but not limited to rates or charges associated with billing, collection and late payments for basic local exchange service service?
3. Were the basic local exchange service rates in effect for BellSouth on June 6, 1995 based in part upon the consideration of recurring and nonrecurring expenses

arising from billing, collection and late payments for those services.

4. Were the provisions of Tenn. Code Ann. § 65-5-209 (f) enacted for the purpose of preserving the relationship between the rates for basic local exchange service and also the service provided at those rates?
5. When a telecommunications service provider enters into a contract with a consumer and sells that contract to BellSouth or BellSouth purchases that contract, does BellSouth's purchase of the contract unilaterally create any relationship with the customer other than BellSouth's right to receive payments in accordance with the contract?

Respectfully submitted,

A handwritten signature in black ink, appearing to read "L. Vincent Williams", is written over a horizontal line.

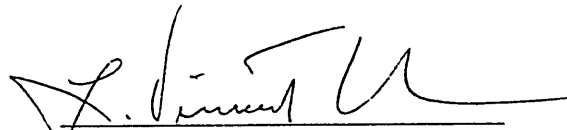
L. Vincent Williams
Deputy Attorney General - Consumer Advocate
Consumer Advocate Division
425 5th Avenue, North
Nashville, TN 37243
(615) 741-8723
BPR. No. 011189

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Document has been faxed and mailed postage prepaid to the parties listed below this 18th day of May, 2000.

Guy Hicks, Esq.
Patrick Turner, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St., Suite 2101
Nashville, TN 37201-3300

David Waddell, Esq.
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505



L. Vincent Williams